



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TRG
Docket No: 4499-99
19 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 16 September 1993 and subsequently extended that enlistment for a period of 12 months. The record also shows that you had prior service in the Army Reserve.

In September 1995 your body fat was measured at 25% and you failed the run portion of the physical readiness test (PRT). A body fat measurement above 22% is also considered to be a failure of the PRT. During the next testing cycle your body fat was 17% and you passed the PRT. On 24 March 1996 you were disqualified for duty in submarines because of high frequency hearing loss. In addition, you were required to change your rating because your hearing loss precluded service as a machinist mate. You agreed to the change in rating and acknowledged that you were not eligible to compete for advancement as a machinist mate.

In June 1996 your body fat was 23% and you failed the run portion of the PRT. In March 1997 you were placed on six months limited duty and were apparently not required to take the PRT. However, your body fat was measured at 23% on 25 May 1997, and 19% on 12 January 1998. On 1 September 1998 a physical evaluation board

found you fit for full duty. There are no extensions in the record to support service after 15 September 1998. However, the Board believed that there must have been either a short term extension which is not in the record or you were on medical hold after that date. On 13 October 1998 your body fat was indicated to be 24%, but you apparently did not take the PRT.

The record shows that you were honorably discharged on 6 November 1998 by reason of completion of required active service. You have submitted a DD Form 214 showing that you were assigned an RE-4 reenlistment code. However, the record contains a DD Form 214 which states that it was administratively reissued at the Bureau of Naval Personnel on 31 August 2000 and it shows you were assigned an RE-3T reenlistment code. A copy of the DD Form 214 is enclosed for your information.

The Board considered your contention that you were illegally discharged because you were denied your right to an administrative discharge board (ADB). You contend that an ADB was required because you had over six years of active and reserve service. However, the Board found that you were not entitled to an ADB because you were not discharged for cause but served until the completion of your service. At that time, the decision to deny reenlistment is solely a matter of command discretion, and an individual separated upon expiration of enlistment has no entitlement to an ADB.

The Board noted your contention that the PRT regulations were not followed in your case and your discharge was therefore improper. In this regard, in 1997, your body fat composition was noted about 15 days before the PRT, and the regulations called for such an entry to be made no more than 10 days prior to the PRT. However, the Board did not believe that this discrepancy, in and of itself, was sufficient to invalidate the body fat reading of 25%. Additionally, the Board noted that the risk factor screening was not documented prior to the 1996 PRT. However, that screening is done in order to ensure that the individual is not placed at risk for bodily harm, such as a heart attack, during the PRT. Since you completed the PRT without any such harm, any failure to determine the risk factors was clearly harmless. Further, as indicated, you were not discharged for weight control failure and the regulations concerning discharge for that reason did not apply in your case.

Regulations also state that individuals who have accumulated three physical readiness program failure in the past four years shall be denied reenlistment. As indicated, you failed body fat measurements in September 1995, June 1996, May 1997 and October 1998, which is four failures in a four year period. Therefore, the Board concluded that there was no abuse of discretion in the denial of your reenlistment.

Regulations require the assignment of an RE-3T or an RE-4 reenlistment code when an individual is denied reenlistment because of a failure to meet weight standards. As indicated, your record now shows an RE-3T reenlistment code. This code means that you are eligible for reenlistment except for the disqualifying factor of weight control failure. Since you clearly did not meet the weight standards, the Board concluded that the RE-3T reenlistment code was properly assigned.

Finally, the Board noted your contention that you were improperly denied the opportunity to advance to petty officer second class. However, it is clear from the record that you had to change ratings because of your hearing loss and you agreed to this retraining. Further, you were aware that you were not eligible to be advanced until your retraining was complete. Therefore, no error could be found concerning your failure to be advanced.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure